



Federal Communications Commission  
Washington, D.C. 20554

June 19, 2012

DA 12-964

**Via Certified Mail, Return Receipt Requested**

Sheila Callahan and Friends, Inc.  
Attn: M. Sheila Callahan-Murphy  
725 Strand  
Missoula, MT 59801

**Re: Final Bid Withdrawal Payment on Auction 62 Construction Permit FM185-A  
(Whitehall, MT)**

**DO NOT DISCARD THIS IMPORTANT NOTICE**  
**OF A DEMAND FOR PAYMENT**  
**OF A DEBT OWED THE UNITED STATES AND ORDER OF PAYMENT**

Dear Ms. Callahan-Murphy:

This Order provides notice and demands payment of a debt owed to the United States based on Sheila Callahan and Friends, Inc.'s ("Callahan and Friends") withdrawal of a provisionally winning bid placed during the course of Auction 62.

Callahan and Friends withdrew a provisionally winning bid during Auction 62 for FM Broadcast construction permit FM185-A (Whitehall, MT).<sup>1</sup> Thus, pursuant to the Commission's rules,<sup>2</sup> Callahan and Friends owes a bid withdrawal payment, which is a debt owed to the United States.<sup>3</sup> In 2006, the Commission assessed Callahan and Friends an interim bid withdrawal payment of \$1,560.00 from the monies it had on deposit.<sup>4</sup> FM Broadcast permit FM185-A (Whitehall, MT) was offered in a subsequent auction of FM broadcast construction permits (Auction 91), and because it received a winning bid,<sup>5</sup> the Commission is now able to calculate Callahan and Friends' final bid withdrawal payment obligation with respect to its withdrawn bid in Auction 62.<sup>6</sup>

<sup>1</sup> See Auction of FM Broadcast Construction Permits Closes; Winning Bidders Announced for Auction No. 62, *Public Notice*, 21 FCC Rcd 1071, 1099 (WTB 2006) ("*Auction 62 Closing PN*").

<sup>2</sup> See 47 C.F.R. § 1.2104(g)(1).

<sup>3</sup> See 31 U.S.C. § 3701(b)(1).

<sup>4</sup> See *Auction 62 Closing PN*, 21 FCC Rcd at 1097, 1099. Callahan and Friends paid an upfront payment of \$210,000.00 to participate in Auction 62. See *id.* at 1097. The Commission applied \$1,560.00 of that amount towards Callahan and Friends' interim bid withdrawal payment for construction permit FM185-A. See *id.* The Commission applied the remaining funds from the upfront payment towards Callahan and Friends' balance for its other winning bids. See *id.*

<sup>5</sup> See Auction of FM Broadcast Construction Permits Closes; Winning Bidders Announced for Auction 91, *Public Notice*, 26 FCC Rcd 7541, 7551 (WTB 2011).

<sup>6</sup> See 47 C.F.R. § 1.2104(g)(1).

Under the Commission's rules, a bidder that withdraws a provisionally winning bid during the course of an auction is subject to a bid withdrawal payment equal to the difference between the amount of the withdrawn bid and the amount of the subsequent winning bid.<sup>7</sup> Pursuant to the rule in effect at the time of Auction 62, if a provisionally winning bid is withdrawn on a license or construction permit that remains unsold at the close of the auction, the withdrawing bidder is required to make an interim payment equal to three percent (3%) of the net amount of the withdrawn bid.<sup>8</sup> This payment amount is deducted from any upfront payments or down payments deposited for the withdrawing bidder's account with the Commission.<sup>9</sup> If, in a subsequent auction, that license or construction permit receives a winning bid in an amount equal to or greater than the withdrawn bid amount, then no final bid withdrawal payment is assessed, and, upon appropriate request, the Commission refunds the interim three percent (3%) payment.<sup>10</sup> If, in a subsequent auction, the winning bid for that license or construction permit is less than the bidder's withdrawn amount, then the bidder is required to make a final bid withdrawal payment equal to either the difference between the bidder's net withdrawn bid and the subsequent net winning bid, or the difference between the bidder's gross withdrawn bid and the subsequent gross winning bid, whichever is less.<sup>11</sup>

As shown in Attachment A, in accordance with section 1.2104(g)(1) of the Commission's rules,<sup>12</sup> we have completed the final bid withdrawal payment calculation and, after applying any interim bid withdrawal payment or monies Callahan and Friends has on deposit, Callahan and Friends owes an outstanding balance of \$47,340.00. This debt to the United States is payable in full and without further demand within 30 days of the date of this Order in accordance with the Notice Information provided below and Payment Instructions in Attachment B.

#### **Important Notice Information**

The following provides notification of procedures and information required by the Debt Collection Improvement Act of 1996 ("DCIA").<sup>13</sup> The outstanding balance shown in Attachment A is a debt Callahan and Friends owes to the United States. It is payable in full and without further demand, and payment must be received no later than the payment due date, which is 30 days from the date of this Order ("Due Date").<sup>14</sup> Any portion of the debt unpaid at the end of the Due Date will be considered delinquent and administrative charges (incurred for processing and handling delinquent debts),<sup>15</sup> interest,<sup>16</sup> and penalties<sup>17</sup> will accrue beginning from that date. Interest accrues at a minimum annual

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<sup>7</sup> *Id.*

<sup>8</sup> See 47 C.F.R. § 1.2104(g)(1) (2006).

<sup>9</sup> See 47 C.F.R. §§ 1.2104(g)(1), 1.2106(d) and (e).

<sup>10</sup> See 47 C.F.R. § 1.2104(g)(1).

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> Public Law 104-134, 110 Stat. 1321, 1358 (Apr. 26, 1996) *codified in relevant part at* 31 U.S.C. §§ 3716 (administrative offset) and 3717 (interest and penalty on claims); *see also* 47 C.F.R. §§ 1.1911, 1.1912, and 1.1940.

<sup>14</sup> As noted at Attachment B, if the 30th day falls on a non-business day, payment must be received on the next business day.

<sup>15</sup> 31 U.S.C. § 3717(e)(1); 47 C.F.R. § 1.1940(c).

<sup>16</sup> 31 U.S.C. § 3717(b); 47 C.F.R. § 1.1940(b).

rate established annually by the United States Treasury in accordance with 31 U.S.C. § 3717.<sup>18</sup> However, the Commission will waive payment of the accrued interest, if the full amount of the debt is paid within 30 days of the Due Date.<sup>19</sup> A penalty of six percent (6%) accrues on any portion of the debt that remains unpaid for more than 90 days from the Due Date.<sup>20</sup> In addition to these charges, the Commission may initiate administrative offset<sup>21</sup> and it may refer the delinquent debt to the United States Treasury or the Department of Justice (“DOJ”) for further collection action.<sup>22</sup> The United States Treasury will impose an additional administrative collection charge,<sup>23</sup> and it may also commence administrative offset.<sup>24</sup> An additional surcharge may be imposed if DOJ initiates judicial action to recover judgment.<sup>25</sup> Furthermore, any portion of the debt that is unpaid after the Due Date is a delinquent debt, which will trigger application of the Commission’s red light procedures at 47 C.F.R. § 1.1910.

### **Ordering Clauses**

Accordingly, IT IS ORDERED that, pursuant to sections 4(i) and 309 of the Communications Act of 1934 as amended, 47 U.S.C. §§ 154(i), 309, and section 1.2104(g)(1) of the Commission’s rules, 47 C.F.R. § 1.2104(g)(1), Sheila Callahan and Friends, Inc. is ASSESSED a final bid withdrawal payment as computed in Attachment A.

IT IS FURTHER ORDERED that, pursuant to sections 1.2104 and 1.2106 of the Commission’s rules, 47 C.F.R. §§ 1.2104 and 1.2106, Sheila Callahan and Friends, Inc.’s interim bid withdrawal payment or funds on deposit will be applied towards the sum of the final bid withdrawal payment.

IT IS FURTHER ORDERED that Sheila Callahan and Friends, Inc.’s debt of \$47,340.00 is payable in full and without further demand, and it must be paid within 30 days of the date of this Order (the Due Date), in accordance with the payment instructions in Attachment B, and any portion of the debt unpaid after the Due Date is delinquent, and under 31 U.S.C. § 3717, administrative charges, interest, and penalties will accrue.

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<sup>17</sup> 31 U.S.C. § 3717(e); 47 C.F.R. § 1.1940(d).

<sup>18</sup> 47 C.F.R. § 1.1940(b).

<sup>19</sup> 31 U.S.C. § 3717(d); 47 C.F.R. § 1.1940(g).

<sup>20</sup> 31 U.S.C. § 3717(e)(2); 47 C.F.R. § 1.1940(d).

<sup>21</sup> 47 C.F.R. § 1.1912. Under this provision, the Commission may refer the debt to the United States Treasury for centralized administrative offset whereby, subject to certain exceptions, money otherwise payable to the debtor by the United States government may be used to satisfy the debt. In addition, “unless otherwise prohibited by law,” the Commission may conduct non-centralized, ad hoc case-by-case offsets when centralized offset is unavailable or inappropriate. 47 C.F.R. § 1.1912(c).

<sup>22</sup> 31 U.S.C. §§ 3711(g); 3716; 28 U.S.C. § 3001, *et seq.*; 47 C.F.R. § 1.1912. Transfer may be made without further notice at any time after the Due Date.

<sup>23</sup> 31 U.S.C. § 3717(e); 31 C.F.R. § 285.12(j).

<sup>24</sup> 31 U.S.C. § 3716; 47 C.F.R. § 1.1912(b) (mandatory centralized administrative offset).

<sup>25</sup> 28 U.S.C. § 3011.

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IT IS FURTHER ORDERED that this Order and a FCC Remittance Advice Form (FCC Form 159, Version 2/03) shall be sent to Sheila Callahan and Friends, Inc. and its representatives by certified mail, return receipt requested. This action is taken pursuant to authority delegated by section 0.331 of the Commission's rules, 47 C.F.R. § 0.331.

Sincerely,

Margaret W. Wiener  
Chief, Auctions and Spectrum Access Division  
Wireless Telecommunications Bureau

Attachments

**ATTACHMENT A**

**Multi-Auction Bid Withdrawal Payment Report**

<b>Construction Permit Number Frequency Block</b>	<b>Withdrawn Gross Bid Auction 62</b>	<b>Withdrawn Net Bid Auction 62</b>	<b>Re-auction Gross Bid Auction 91</b>	<b>Re-auction Net Bid Auction 91</b>	<b>Difference Between Withdrawn Bid Amount and Final Bid Amount in Subsequent Auction</b>	<b>Final Withdrawal Payment</b>
FM185-A	\$52,000.00	\$52,000.00	\$3,100.00	\$2,015.00	\$48,900.00	\$48,900.00

Final Bid Withdrawal Payment	\$48,900.00
Less Total of Interim Withdrawal Payment and Amounts on Deposit	\$1,560.00
<b>Outstanding Balance Due on Final Withdrawal Payment</b>	<b>\$47,340.00</b>

**ATTACHMENT B**

**Payment Instructions**

The following information is being provided to assist you in making your payment.

All payments must be made in U.S. currency in the form of a wire transfer. No personal checks, cashier's checks or other forms of payment will be accepted. Wire transfer payments must be received by 6:00 PM Eastern Time, no later than thirty days from the date of this ORDER; however, if the 30th day falls on a non-business day, e.g., Saturday, Sunday or holiday, it is due the next business day. Applicants must allow sufficient time for the wire transfer to be initiated and for the transmission to be completed prior to the deadline. To submit funds by wire, applicants will need the following information to properly effect the transmittal:

ABA Routing Number: **021030004**

Receiving Bank: **TREAS NYC**

33 Liberty Street

New York, NY 10045

ACCOUNT NAME: **FCC**

ACCOUNT NUMBER: **27000001**

OBI Field: (Skip one space between each information item) "AUCTIONPAY"

APPLICANT FRN: (same as FCC Form 159, block 21)

PAYMENT TYPE CODE: (same as FCC Form 159, block 24A: "**AWLD**")

FCC CODE 1: (same as FCC Form 159, Block 28A: ("62"))

PAYOR NAME: (same as FCC Form 159, Block 2)

LOCKBOX NO.: #**979088**

Please fax a completed remittance advice (Form 159) to U.S. Bank, St. Louis, Missouri at (314) 418-4232 **at least one hour before initiating the wire transfer** (but on the same business day).

For questions regarding the submission of payment, and the FCC Form 159, contact Gail Glasser, Office of the Managing Director, Financial Operations, Auctions Accounting Group, at (202) 418-0578.